

EXHIBIT 3

1998 LEGISLATIVE HISTORY FOR HB0925

C-03-CV-24-002264

LR1505

FILECODE: E1

SPONSOR(S): Rudolph, David D., Delegate District 35B
Cryor, Jean B., Delegate District 15

SHORT TITLE: Crimes - Computers - Exceeding Authorized Access..

COMMENT: Session Laws, Chapter 525
FISCAL IMPACT: Fiscal Note available

SYNOPSIS:

Expanding the provisions relating to unauthorized access to specified computer devices, systems, or services to apply to a person who exceeds the person's authorized access and to specified possession of valid access codes; increasing a statute of limitations for specified computer crimes; and generally relating to computer crimes.

HOUSE

2/12 lrg jud
2/18 hrg 3/17 at 1:00 p.m.
3/23 fwa rpt by jud
fwa rpt adp
3/23 2rg pwa
3/25 3rg pas (133-0)
4/11 ret pas

SENATE

3/26 lrg jpr
4/01 hrg 4/07 at 1:00 p.m.
4/13 fav rpt by jpr
4/12 fav rpt adp
4/12 2rg pas
4/13 3rg pas (47-0)

5/12 GOV app Chapter 525

SUBJECT KEY(S):

COMPUTERS, CRIMESP, STATUTL

STATUTE(S):

(g27) Crimes and Punishments
146 (c) amended
146 (a) without amendments
(gcj) Courts and Judicial Proceedings
5-106 (x) added

SENATE OF MARYLAND
JUDICIAL PROCEEDINGS COMMITTEE
SPEAKERS AND APPEARANCES

Senate Bill No.

House Bill No.

925

Subject Matter:

CRIMES - COMPUTERS - EXCEEDING AUTHORIZED ACCESS

Date of Hearing:

APRIL 7, 1998

Sponsor of Bill:

DEL RUDOLPH

(IF NAME IS NOT PRINTED, WITNESS MAY NOT BE CALLED TO TESTIFY.)

LIST OF SPEAKERS AND INTERESTED PARTIES

PLEASE PRINT

"PLEASE PRINT"

FOR

AGST.

TIME REQUESTED
TO SPEAK

NAME

ADDRESS

PHONE#

✓

for
BARRY LEESE

5 min

MD STATE Police

410-290-1620

HOUSE JUDICIARY COMMITTEE
VOTE TALLYH.B. 925DATE 3-20-98

S.B. _____

H.J.R. _____

S.J.R. _____

MOTION ☒ Favorable☒ Amended

_____ Re-refer to _____

_____ Unfavorable

_____ Hold

_____ Other _____

	YEAS	NAYS	ABSTAIN	ABSENT
VALLARIO, J. F.				
DOORY, A. M.	✓			
MONTAGUE, K. C.	✓			
CONROY, M. A.				✓
DEMBROW, D. L.	✓			
PERRY, M. G.				✓
MURPHY, T. D.	✓			
TURNER, F. S.	✓			
GROSFELD, S.	✓			
JACOBS, N.	✓			
BURNS, M. W.	✓			
PETZOLD, C. S.	✓			
HUTCHINS, T. E.	✓			
MURPHY, D. E.	✓			
BURNS, E. C.	✓			
O'DONNELL, A. J.	✓			
BAKER, R. L.	✓			
COMEAU, M. G.	✓			
VALDERRAMA, D. M.	✓			
BISSETT, P. D.				✓
GENN, G. J.	✓			
MENES, P. H.	✓			
TOTAL	18	0	0	3

*excused**excused*

COMMITTEE REPORTER

CKarlin



SENATE OF MARYLAND

JUDICIAL PROCEEDINGS COMMITTEE

VOTING RECORD

Date: 4-13-98

SB _____

HB 925

SJR _____

HJR _____

MOTION FAVPASSED ✓

FAILED _____

Favorable

✓

Favorable with amendments

Re-refer

Unfavorable

Hold

Other

	Yeas	Nays
BAKER, Chairman	✓	
GREEN, Vice Chairman	✓	
HAINES	✓	
COLBURN	✓	
FERGUSON	✓	
JIMENO	✓	
JEFFERIES	✓	
FOREHAND	✓	
HUGHES	✓	
MIDDLEBROOKS		✓
STONE	✓	

TOTAL

101

AB - Absent

SEQ NO. 1291

APR 13, 1998

10:43 PM

Senate of Maryland
1998 Regular Session

HB 925 Third Reading (HB) Calendar No. 60
Del. Rudolph et al (JPR)
Crimes - Computers - Exceeding Authorized Access
On Third Reading

PRESIDING: MR. PRESIDENT

LEGISLATIVE DATE
APR 13, 1998

47 YEAS 0 NAYS 0 EXC 0 NOT VOTING 0 EXCUSED (ABSENT)

VOTING YEA - 47

MR. PRESIDENT	DERR	HOLLINGER	MUNSON
ASTLE	DORMAN	HUGHES	NEALL
BAKER	DYSON	JEFFERIES	PINSKY
BLOUNT	FERGUSON	JIMENO	ROESSER
BOOZER	FOREHAND	KASEMEYER	RUBEN
BROMWELL	FROSH	KELLEY	SFIKAS
COLBURN	FRY	LAWLAH	STOLTZFUS
COLLINS	GREEN	MADDEN	STONE
CONWAY	HAER	MCCABE	TEITELBAUM
CRAIG	HAINES	MCFADDEN	TROTTER
CURRIE	HOFFMAN	MIDDLEBROOKS	VAN HOLLEN
DELLA	HOGAN	MIDDLETON	

VOTING NAY - 0

NOT VOTING - 0

EXCUSED FROM VOTING - 0

EXCUSED (ABSENT) - 0

SEQ NO. 512

MAR 25, 1998

5:34 PM

PRESIDING: Mr. Speaker

LEGISLATIVE DATE: MAR 25, 1998

General Assembly of Maryland
House of Delegates
1998 Regular Session

HB 925 Third Reading (HB) Calendar No. 37

Del. Rudolph et al

(JUD)

Crimes - Computers - Exceeding Authorized Access

On Third Reading

133 YEAS 0 NAYS 0 EXC 3 NOT VOTING 5 EXCUSED (ABSENT)

VOTING YEA - 133

Mr. Speaker	Cryor	Harkins	McClenahan	Pitkin
Arnick	Davis C	Healey	McHale	Poole
Baker R	Davis D	Heller	McKee	Ports
Baker W	DeCarlo	Hixson	Menes	Preis
Baldwin	Dembrow	Howard	Minnick	Proctor
Barve	Dewberry	Hubbard	Mitchell C	Rawlings
Beck	Dobson	Hughes B	Mitchell V	Redmer
Benson	Donoghue	Hughes D	Moe	Rosenberg
Billings	Dypski	Hurson	Mohorovic	Rudolph
Bissett	Eckardt	Hutchins	Montague	Rzepkowski
Bobo	Edwards	Jacobs	Morgan	Schade
Bonsack	Elliot	Jones	Morhaim	Schisler
Boston	Exum	Kach	Mossburg	Shriver
Bozman	Faulkner	Kagan	Murphy D	Slade
Branch	Finifter	Kelly	Murphy T	Snodgrass
Brinkley	Flanagan	Kirk	Muse	Stocksdale
Burns E	Franchot	Kittleman	Nathan-Pulliam	Stull
Burns M	Frank	Klausmeier	O'Donnell	Stup
Busch	Frush	Klima	Oaks	Turner
Cadden	Fulton	Kopp	Opara	Valderrama
Campbell	Genn	Krysiak	Owings	Vallario
Ciliberti	Getty	La Vay	Palumbo	Walkup
Clagett	Goldwater	Leopold	Patterson	Weir
Comeau	Gordon	Love	Pendergrass	Willis Miller
Conroy	Greenip	Malone	Perry	Wood
Conway	Grosfeld	Mandel	Petzold	Workman
Crumlin	Hammen	Marriott		

VOTING NAY - 0

NOT VOTING - 3

Guns	Harrison	Holt
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EXCUSED FROM VOTING - 0

EXCUSED (ABSENT) - 5

Doory	Hecht	Linton	McIntosh	Watson
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* indicates vote change

HB 925

**Department of Legislative Services
Maryland General Assembly**

FISCAL NOTE

House Bill 925 (Delegate Rudolph)
Judiciary

Crimes - Computers - Exceeding Authorized Access

This bill expands the provision of law pertaining to computer access to prohibit a person from intentionally, willfully, and without authorization exceeding the person's authorized access to computer systems or services. The bill also prohibits a person from intentionally, willfully, and without authorization possessing any valid access codes. A three-year statute of limitations is applied to all unauthorized access offenses of this subsection.

Fiscal Summary

State Effect: Potential indeterminate increase in general fund revenues and expenditures due to the applicable penalty provisions. The effect of the three-year statute of limitations on possible prosecutions, convictions, and penalties is not readily predictable.

Local Effect: Potential indeterminate increase in revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: Indeterminate. To the extent this bill might discourage unauthorized access to devices or systems and/or alleviate access code difficulties, large or small businesses in computer related fields could benefit. Such a potential benefit cannot be reliably quantified.

Fiscal Analysis

State Revenues: Violators of the provisions of the bill are guilty of a misdemeanor and subject to a fine of up to \$1,000 and/or imprisonment of up to three years, or a fine of up to \$5,000 and/or imprisonment of up to five years, depending on the provision violated. As a result, general fund revenues could increase under the applicable monetary penalty provisions for those cases heard in the District Court, depending upon the number of convictions and fines imposed.

State Expenditures: General fund expenditures could increase as a result of the applicable incarceration penalty due to more people being committed to a Division of Correction (DOC) facility and increased payments to counties for reimbursement of inmate costs, depending upon the number of convictions and sentences imposed.

Persons serving a sentence longer than one year are incarcerated in a DOC facility. In fiscal 1999 the average monthly cost per inmate is estimated at \$1,500.

Persons serving a sentence of one year or less are sentenced to a local detention facility. The State reimburses counties for part of their per diem rate after a person has served 90 days. State per diem reimbursements for fiscal 1999 are estimated to range from \$12 to \$42 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in a DOC facility, with an average monthly cost estimated at \$1,500 for fiscal 1999. [The Baltimore City Detention Center (BCDC), a State operated facility, is used primarily for pretrial detentions. The per diem cost for BCDC in fiscal 1999 is estimated at \$43 per inmate.]

Local Revenues: Revenues could increase under the applicable monetary penalty provision for those cases heard in the circuit courts, depending upon the number of convictions and fines imposed.

Local Expenditures: Expenditures could increase as a result of the applicable incarceration penalty depending upon the number of convictions and sentences imposed. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$23 to \$84 per inmate in fiscal 1999.

Information Source(s): Department of Public Safety and Correctional Services
(Division of Correction), Department of Legislative Services

Fiscal Note History: First Reader - March 12, 1998
ncs

Analysis by: Mike Sanelli
Reviewed by: John Rixey

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 841-3710
(301) 858-3710

HB 925

J. JOSEPH CURRAN, JR.
ATTORNEY GENERAL

CARMEN M. SHEPARD
RONNA HILL STATON
DEPUTY ATTORNEYS GENERAL



LEGISLATIVE SERVICES LIBRARY
B-08 LSB

ASSISTANT ATTORNEYS GENERAL

THE ATTORNEY GENERAL OF MARYLAND

April 30, 1998

The Honorable Parris N. Glendening
Governor of Maryland
State House
Annapolis, Maryland 21401-1991

Dear Governor Glendening:

We have approved the following bills for constitutionality and legal sufficiency:

SENATE

91
255*
264**
360
446
537
715***
761****

HOUSE

110	680**	1130
135	737	1199
192	781	1252
226	836	1265
253	904	1293
350***	925	1334
430	933*	1377****
465	1043	1381
523	1044	

Very truly yours,

J. Joseph Curran, Jr.
Attorney General

JJCjr:ads

cc: Joseph C. Bryce
Secretary of State
Karl Aro

BALTIMORE METROPOLITAN AREA
Telephone (410) 841-3889
FAX (410) 841-3890
TTY For Deaf (410) 841-3814

COUNSEL TO THE GENERAL ASSEMBLY
104 LEGISLATIVE SERVICES BUILDING
90 STATE CIRCLE
ANNAPOLIS, MARYLAND 21401-1991

WASHINGTON METRO AREA
Telephone (301) 858-3889
Fax (301) 858-3890
TTY For Deaf (301) 858-3814

The Honorable Parris N. Glendening
Page 2
April 30, 1998

Footnotes

- * SB 255 is identical to HB 933.
- ** SB 264 is identical to HB 680.
- *** SB 715 is identical to HB 350.
- **** SB 761 is identical to HB 1377.



SENATE JUDICIAL PROCEEDINGS COMMITTEE
WALTER M. BAKER, CHAIRMAN * COMMITTEE REPORT SYSTEM
Department of Legislative Services • 1998 General Assembly of Maryland

FLOOR REPORT

HOUSE BILL 925

Crimes - Computers - Exceeding Authorized Access

SPONSORS:

Delegates Rudolph and Cryor

COMMITTEE RECOMMENDATION:

Favorable.

SUMMARY OF BILL:

The bill prohibits a person from intentionally, willfully, and without authorization exceeding the person's authorized access to any computer devices, systems, or services. A violation of this offense is a misdemeanor punishable by a fine not to exceed \$3,000, imprisonment not to exceed 1 year, or both.

This bill further prohibits a person from intentionally, wilfully, and without authorization exceeding the person's authorized access to any computer devices, systems, or services for the purpose of causing the malfunction or interruption of the operation of the computer device, system, or service, or alteration, damage, or destruction of data or a computer program stored, maintained, or produced by the computer device, system, or service. The penalty for this misdemeanor offense is a fine up to \$5,000, imprisonment up to 5 years, or both.

The bill also prohibits a person from intentionally, willfully, and without authorization possessing any valid access codes. The penalty for this misdemeanor offense is a fine up to \$5,000, imprisonment up to 5 years, or both.

The bill provides a 3 year statute of limitations period for computer crimes prosecuted under Article 27, §146(c) of the Code.

COMMITTEE AMENDMENTS:

None.

BACKGROUND:

In the recent Court of Appeals case of Briggs v. State (filed 1/22/98), the Court addressed the issue of whether the current statute in Art. 27, § 146 covered the situation of a person whose access to a

computer was authorized, but who exceeded the scope of the authorization. The Court held that it did not, stating: "The statute makes no reference to authorized users who exceed the scope of their authority. If the Legislature intended the statute to cover employees who exceeded the scope of their authority or who misused their authority, it could have done so explicitly. We conclude that the intent of the General Assembly was to criminalize the misuse of computers or computer networks by those whose initial access was unauthorized." This bill will criminalize the conduct described in Briggs.

Under current law, a person is prohibited from intentionally, wilfully, and without authorization accessing, attempting to access, or causing access to any computer devices, systems, or services.

Current law prohibits a person from intentionally, willfully, and without authorization accessing, attempting to access, or causing access to any computer devices, systems, or services with the purpose of causing the malfunction or interruption of the operation of the computer device, system, or service, or alteration, damage, or destruction of data or a computer program stored, maintained, or produced by the computer device, system, or service.

Current law prohibits a person from intentionally, willfully, and without authorization identifying or attempting to identify any valid access codes or distributing or publicizing any valid access codes to any unauthorized person.

JMc



SENATE JUDICIAL PROCEEDINGS COMMITTEE
WALTER M. BAKER, CHAIRMAN * COMMITTEE REPORT SYSTEM
Department of Legislative Services • 1998 General Assembly of Maryland

BILL ANALYSIS

HOUSE BILL 925

Crimes - Computers - Exceeding Authorized Access

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The bill prohibits a person from intentionally, willfully, and without authorization exceeding the person's authorized access to any computer devices, systems, or services. A violation of this offense is a misdemeanor punishable by a fine not to exceed \$3,000, imprisonment not to exceed 1 year, or both.

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The bill also prohibits a person from intentionally, willfully, and without authorization possessing any valid access codes. The penalty for this misdemeanor offense is a fine up to \$5,000, imprisonment up to 5 years, or both.

The bill provides a 3 year statute of limitations period for computer crimes prosecuted under Article 27, §146(c) of the Code.

BACKGROUND:

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Current law prohibits a person from intentionally, willfully, and without authorization identifying or attempting to identify any valid access codes or distributing or publicizing any valid access codes to any unauthorized person.

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JUDICIARY COMMITTEE
JOSEPH F. VALLARIO, JR., CHAIRMAN * COMMITTEE REPORT SYSTEM
Department of Legislative Services . 1998 General Assembly of Maryland

BILL ANALYSIS
HOUSE BILL 925

Crimes - Computers - Exceeding Authorized Access

SPONSOR:

Delegate Rudolph

SUMMARY OF BILL:

The bill prohibits a person from intentionally, willfully, and without authorization exceeding the person's authorized access to any computer devices, systems, or services.

This bill further prohibits a person from intentionally, wilfully, and without authorization exceeding the person's authorized access to any computer devices, systems, or services for the purpose of causing the malfunction or interruption of the operation of the computer device, system, or service, or alteration, damage, or destruction of data or a computer program stored, maintained, or produced by the computer device, system, or service.

The bill prohibits a person from intentionally, willfully, and without authorization possessing any valid access codes.

The bill provides a 3 year statute of limitations period for computer crimes prosecuted under Article 27, §146(c) of the Code.

BACKGROUND:

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In the recent Court of Appeals case of Briggs v. State (filed 1/22/98), the Court addressed the issue of whether the current statute in Art. 27, § 146 covered the situation of a person whose access to a

computer was authorized, but who exceeded the scope of the authorization. The Court held that it did not, stating: "The statute makes no reference to authorized users who exceed the scope of their authority. If the Legislature intended the statute to cover employees who exceeded the scope of their authority or who misused their authority, it could have done so explicitly. We conclude that the intent of the General Assembly was to criminalize the misuse of computers or computer networks by those whose initial access was unauthorized." This bill will criminalize the conduct described in Briggs.

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SENATE JUDICIAL PROCEEDINGS COMMITTEE
WALTER M. BAKER, CHAIRMAN * COMMITTEE REPORT SYSTEM
 Department of Legislative Services • 1998 General Assembly of Maryland

BILL ANALYSIS

HOUSE BILL 925

Crimes - Computers - Exceeding Authorized Access

SPONSORS:

Delegates Rudolph and Cryor

SUMMARY OF BILL:

The bill prohibits a person from intentionally, willfully, and without authorization exceeding the person's authorized access to any computer devices, systems, or services. A violation of this offense is a misdemeanor punishable by a fine not to exceed \$3,000, imprisonment not to exceed 1 year, or both. *if*

This bill further prohibits a person from intentionally, wilfully, and without authorization exceeding the person's authorized access to any computer devices, systems, or services for the purpose of causing the malfunction or interruption of the operation of the computer device, system, or service, or alteration, damage, or destruction of data or a computer program stored, maintained, or produced by the computer device, system, or service. The penalty for this misdemeanor offense is a fine up to \$5,000, imprisonment up to 5 years, or both. *if*

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give me an il

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JUDICIARY COMMITTEE
JOSEPH F. VALLARIO, JR., CHAIRMAN * COMMITTEE REPORT SYSTEM
Department of Legislative Services • 1998 General Assembly of Maryland

BILL ANALYSIS

HOUSE BILL 925

Crimes - Computers - Exceeding Authorized Access

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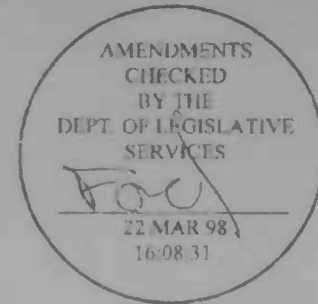
In the recent Court of Appeals case of Briggs v. State (filed 1/22/98), the Court addressed the issue of whether the current statute in Art. 27, § 146 covered the situation of a person whose access to a

computer was authorized, but who exceeded the scope of the authorization. The Court held that it did not, stating: "The statute makes no reference to authorized users who exceed the scope of their authority. If the Legislature intended the statute to cover employees who exceeded the scope of their authority or who misused their authority, it could have done so explicitly. We conclude that the intent of the General Assembly was to criminalize the misuse of computers or computer networks by those whose initial access was unauthorized." This bill will criminalize the conduct described in Briggs.

AR



HB0925/691198/1



BY: House Judiciary Committee

AMENDMENT TO HOUSE BILL NO. 925
(First Reading File Bill)

On page 1, in the sponsor line, strike "Delegate Rudolph" and substitute "Delegates Rudolph and Cryor"; in line 4, strike "; establishing" and substitute "to apply to a person who exceeds the person's authorized access and to certain possession of valid access codes; increasing".

ADOPTED

MAR 23 1998

Mary Morahan
CHIEF CLERK

SCREEN

9

Amendment as Finalized by the Amendment Office 16:08:31 on 22 MAR 98

HB0925/691198/1

BY: House Judiciary Committee

AMENDMENT TO HOUSE BILL NO. 925
(First Reading File Bill)

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SCREEN



HB0925/323709/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

Tracy

13 APR 98
16:54:04

BY: Senator Hogan

AMENDMENTS TO HOUSE BILL NO. 925
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 2, strike "Crimes -"; in the same line, after "Access" insert "- Public On-Line Access"; in line 6, after "crimes;" insert "requiring the Division of State Documents to provide the public with certain on-line access to certain materials; requiring the receipt of certain materials to be preceded by certain information; prohibiting the use of certain data or material for commercial purposes; establishing a certain fine for certain violations;"; and in line 7, after "crimes" insert "and public on-line access to certain materials".

AMENDMENT NO. 2

On page 1, after line 22, insert:

"BY repealing and reenacting, with amendments,
Article - State Government
Section 7-206.2
Annotated Code of Maryland
(1995 Replacement Volume and 1997 Supplement)".

AMENDMENT NO. 3

On page 3, after line 34, insert:

"Article - State Government

7-206.2.

(a) The Division may arrange for data bases derived from publications issued by the Division to be made available to the public for direct on-line searching by contracting with third-party or value-added resellers.

(Over)

HB0925/323709/1
Amendments to HB 925
Page 2 of 3

Hogan

(b) Notwithstanding the provisions of subsection (a) of this section, the State Data Center shall charge for on-line access to the Maryland Information Retrieval System.

(c) This section may not be construed to require a State data center to provide a member of the public with direct on-line access or any other type of access to the computers or data bases of the State Data Center.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE DIVISION SHALL MAKE AVAILABLE TO THE PUBLIC, AT NO COST, DIRECT ON-LINE SEARCHING OF:

(1) THE CODE OF MARYLAND REGULATIONS;

(2) THE MARYLAND REGISTER; AND

(3) ANY OTHER MATERIAL THE DIVISION DETERMINES TO BE IN THE PUBLIC INTEREST.

(E) THE RECEIPT OF ANY MATERIAL MADE AVAILABLE TO THE PUBLIC UNDER THE TERMS OF SUBSECTION (D) OF THIS SECTION SHALL BE PRECEDED BY A LEGEND STATING THAT:

"THE INFORMATION YOU ARE ABOUT TO RECEIVE IS MADE AVAILABLE FOR PERSONAL USE ONLY. BY PROCEEDING BEYOND THIS POINT YOU AGREE THAT YOU WILL NOT USE THE INFORMATION CONTAINED HEREIN FOR ANY COMMERCIAL PURPOSE WHATSOEVER INCLUDING, BY WAY OF EXAMPLE AND NOT IN LIMITATION, THE DOWNLOADING OF THIS INFORMATION FOR USE IN ANY OTHER ELECTRONIC OR PRINTED FORM."

(F) THE LEGEND REFERENCED IN SUBSECTION (E) OF THIS SECTION SHALL BE PRESENTED TO THE RECIPIENT IN A MANNER THAT AFFORDS THE RECIPIENT AN OPPORTUNITY TO REFUSE TO ACCESS THE MATERIAL.

(G) DATA OR MATERIAL OBTAINED PURSUANT TO SUBSECTION (D) OF THIS

HB0925/323709/1

Hogan

Amendments to HB 925

Page 3 of 3

SECTION MAY NOT BE USED FOR ANY COMMERCIAL PURPOSE.

(H) A PERSON WHO VIOLATES SUBSECTION (G) OF THIS SECTION SHALL BE
SUBJECT TO A FINE NOT TO EXCEED \$1,000 FOR EACH VIOLATION.”.

M
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F

MARYLAND AUTOMOBILE INSURANCE FUND

1750 FOREST DRIVE
ANNAPOLIS, MARYLAND 21401

(410) 269-8625

DAVID C. TRAGESER
EXECUTIVE DIRECTOR

March 16, 1998

Joseph F. Vallario, Jr., Chairman
House Judiciary Committee
Room 120, Lowe House Office Building
Annapolis, Maryland 21401-1991

Re: Letter in Support of HB 925 - Exceeding Authorized Access to Computer Systems

Dear Delegate Vallario,

MAIF would like to register its support for HB 925. This bill would make it a crime to exceed the authority given to an individual to access a computer system. Currently, Maryland law allows anyone with access to a computer to exceed that authority, and even cause damage to the computer system with impunity. Only actions by "outsiders" are criminalized. This bill deals with this issue by criminalizing the unauthorized acts of "insiders."

Typically, computer systems are designed to give varying access levels to users based on their duties or work areas. An example of this at MAIF is where Claim employees are given access to programs which allow for the issuance of claim payments and Underwriters (who are not engaged in claim settlements) are not allowed such access. This bill would make it unlawful for an Underwriter to attempt to gain access to these programs by intentionally trying to gain access to the computer as a Claim employee. In short, limited access is not intended to be blanket access.

As technology advances, the law must also change to keep pace with the expanding ability of individuals to illegally exploit computer systems for their own purposes and benefit. With the advent of the Internet, anyone with a personal computer and a telephone line can make a connection to a computer anywhere in the world from the comfort of their living room. Employees who misuse computer systems and betray the trust put in them by their employers should face legal consequences.

On behalf of MAIF, I urge a favorable report on HB 925.

Very truly yours,



David C. Trageser
Executive Director

cc: Members of the House Judiciary Committee



State of Maryland
Department of State Police
Government Affairs (410) 653-4431
Annapolis Office (410) 974-5068

POSITION ON PROPOSED LEGISLATION

DATE: March 17, 1998

BILL NUMBER: House Bill 925 **POSITION:** Support

BILL TITLE: Crimes - Computers - Exceeding Authorized Access

REVIEW AND ANALYSIS:

This legislation seeks to prohibit individuals from exceeding their authorized access to a computer, computer network or any part of these systems.

Recent enhancements in computer hardware and software have resulted in an increase in computer-related crime. The day when only big businesses had access to mainframes and microcomputers has come to an end. Computer technology of the 1990's has resulted in businesses of every size and individuals having access to some type of computer equipment.

Recently the Maryland Court of Appeals overturned the conviction of an individual that was convicted of illegal access to a computer under Article 27, Section 146. The individual charged was an employee of the victim company. The charged individual exceeded his authorized access to the computer system to alter records. The Court has ruled that if an employee is given access to the computer system then he can not be charged with illegal access to a computer. House Bill 808 will alleviate this problem.

Many of the computer intrusions cases occurring in Maryland are from sources outside of the State. The complexity and frequency of computer intrusion occurring in Maryland has increased dramatically. By changing existing law so that the statute of limitations is increased to three years will greatly enhance law enforcement's ability to identify, investigate, and prosecute computer intruders.

For Additional Information Contact -
First Sergeant Bernie Shaw, Maryland State Police, (410) 653-4431 or (410) 974-5068



HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND

HOUSE JUDICIARY COMMITTEE

SPEAKERS AND APPEARANCES

DATE OF HEARING: 3-17-98

HOUSE BILL NO. AND SPONSOR: HB 925- Del. Rudolph

SENATE BILL NO. AND SPONSOR: _____

SUBJECT MATTER: Crimes - Computers - Exceeding Authorized Access

LIST OF SPEAKERS AND INTERESTED PARTIES

PROponents

Panel

NAME (please print)	ADDRESS /PHONE	AFFILIATION
MAJOR DON LEWIS	ACTING BUREAU CHIEF BUREAU OF DRUG & CRIMINAL INV.	MSD
DI SGT BARRY LEESE	COMPUTER CRIMES UNIT	MSD
SPE. AGENT H. LISA WARD	U.S. CUSTOMS SERVICE	U.S. CUSTOMS
MR. JERRY IANNACCI	EXEC. VICE PRES. CONTACT CONSULTANTS	
S/A MATT PEARSONS		
NAME (please print)	ADDRESS /PHONE	AFFILIATION
NAME (please print)	ADDRESS /PHONE	AFFILIATION

OPponents

NAME (please print)	ADDRESS /PHONE	AFFILIATION
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NAME (please print)	ADDRESS /PHONE	AFFILIATION
NAME (please print)	ADDRESS /PHONE	AFFILIATION
NAME (please print)	ADDRESS /PHONE	AFFILIATION

State of Maryland
Department of State Police
Government Affairs (410) 653-4431
Annapolis Office (410) 974-5068

POSITION ON PROPOSED LEGISLATION

Maryland has aggressively promoted enhancements in computer technology in recent years. Funding has been set aside to connect every school to the Internet and for the building of new computer systems to carry Maryland into the 21st century. Now it is time for the legislature to adopt new laws pertaining to computers and electronic communication to protect the investments of federal, state, and private sources.

For these reasons, the Department of State Police and the Maryland Chiefs of Police urge the Committee to give House Bill 925 a favorable report.

For Additional Information Contact -
First Sergeant Bernie Shaw, Maryland State Police, (410) 653-4431 or (410) 974-5068

Department of Legislative Services
Maryland General Assembly

FISCAL NOTE INFORMATION
ATTACH TO BILL

TO: Chairman, Judiciary
-> Chairman, Judicial Proceedings
Bill Sponsor, Delegate Rudolph, et al.

DATE: 26-Mar-98

FROM: John F. Rixey
Coordinating Analyst

RE: **House Bill 925**
Crimes - Computer - Exceeding Authorized Access

We have examined the third reader for the above mentioned bill and have found no change in the original fiscal note

cc: Fiscal Note File

JFR/ncs

Legislative Services Building - 90 State Circle - Annapolis, Maryland 21401-1991
(410) 841-3710 - Fax (410) 841-3722 - TTY (410) 841-3418



Since 1961

MARYLAND CHIEFS OF POLICE ASSOCIATION LEGISLATIVE COMMITTEE

BILL NO.: HB 925

TITLE: Crimes - Computers - Exceeding Authorized Access

SPONSOR: Delegate Rudolph

COMMITTEE: Judiciary

POSITION: **SUPPORT**

The Maryland Chiefs of Police Association and the Maryland Sheriffs Association **SUPPORT** the passage of House Bill 925, which amends § 146(a) of Article 27, Crimes and Punishments, and adds to § 5-106(x) of the Courts and Judicial Proceedings article to expand the provisions relating to unauthorized access to certain computer devices, systems, or services; establishing a statute of limitations for certain computer crimes; and generally relating to computer crimes.

Computer technology has advanced to such a degree that practically every business, institution, school, and private concern has access to a computer or computer network. Along with these vast numbers of computers, there has been a large increase in computer related crimes.

Unauthorized access or exceeding one's access to a computer generates serious concerns and problems for businesses and others who rely on their computers in their daily operations. This unauthorized access has caused companies millions of dollars in losses.

For the above reasons, the Maryland Chiefs of Police Association and the Maryland Sheriffs Association request a **FAVORABLE REPORT** on House Bill 925.

03/17/98



Integrity Fairness Service

BALTIMORE COUNTY POLICE DEPARTMENT

Headquarters:

700 East Joppa Road
Towson, MD 21286-5501
(410) 887-2211 (Voice)
(410) 887-4933 (Fax)

Terrence B. Sheridan
Chief of Police

BILL NO.: HB 925

TITLE: Crimes - Computers - Exceeding Authorized Access

SPONSOR: Delegate Rudolph

COMMITTEE: Judiciary

POSITION: **SUPPORT**

The Baltimore County Police Department **SUPPORTS** the passage of House Bill 925, which amends § 146(a) of Article 27, Crimes and Punishments, and adds to § 5-106(x) of the Courts and Judicial Proceedings article to expand the provisions relating to unauthorized access to certain computer devices, systems, or services; establishing a statute of limitations for certain computer crimes; and generally relating to computer crimes.

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Unauthorized access or exceeding one's access to a computer generates serious concerns and problems for businesses and others who rely on their computers in their daily operations. This unauthorized access has caused companies millions of dollars in losses.

For the above reasons, the Baltimore County Police Department requests a **FAVORABLE REPORT** on House Bill 925.

03/17/98

Nationally Accredited Since 1984





Integrity Fairness Service

Terrence B. Sheridan
Chief of Police

BALTIMORE COUNTY POLICE DEPARTMENT

HEADQUARTERS

700 East Joppa Road
Towson, MD 21286-5501
(410) 887-2211
(410) 887-4933

BILL NO.: HB 925

TITLE: Crimes - Computers - Exceeding Authorized Access

SPONSOR: Delegates Rudolph and Cryor

COMMITTEE: Judicial Proceedings

POSITION: **SUPPORT**

The Baltimore County Police Department **SUPPORTS** the passage of House Bill 925, which amends § 146(a) of Article 27, Crimes and Punishments, and adds to § 5-106(x) of the Courts and Judicial Proceedings article to expand the provisions relating to unauthorized access to certain computer devices, systems, or services; establishing a statute of limitations for certain computer crimes; and generally relating to computer crimes.

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For the above reasons, the Baltimore County Police Department requests a **FAVORABLE REPORT** on House Bill 925.

04/07/98

Nationally Accredited Since 1984



HOUSE BILL 925

E1

8lr1505

By: Delegate Rudolph
 Introduced and read first time: February 12, 1998
 Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Computers - Exceeding Authorized Access**

3 FOR the purpose of expanding the provisions relating to unauthorized access to
 4 certain computer devices, systems, or services; establishing a statute of
 5 limitations for certain computer crimes; and generally relating to computer
 6 crimes.

7 BY repealing and reenacting, without amendments,
 8 Article 27 - Crimes and Punishments
 9 Section 146(a)
 10 Annotated Code of Maryland
 11 (1996 Replacement Volume and 1997 Supplement)

12 BY repealing and reenacting, with amendments,
 13 Article 27 - Crimes and Punishments
 14 Section 146(c)
 15 Annotated Code of Maryland
 16 (1996 Replacement Volume and 1997 Supplement)

17 BY adding to
 18 Article - Courts and Judicial Proceedings
 19 Section 5-106(x)
 20 Annotated Code of Maryland
 21 (1995 Replacement Volume and 1997 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 23 MARYLAND, That the Laws of Maryland read as follows:

24 **Article 27 - Crimes and Punishments**

25 146.

26 (a) In this section the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
 [Brackets] indicate matter deleted from existing law.



HOUSE BILL 925

2

1 (1) (i) "Computer" means an electronic, magnetic, optical, organic, or
 2 other data processing device or system that performs logical, arithmetic, memory, or
 3 storage functions.

4 (ii) "Computer" includes any property, data storage facility, or
 5 communications facility that is directly related to or operated in conjunction with that
 6 device or system.

7 (iii) "Computer" does not include an automated typewriter, or
 8 typesetter, or a portable calculator.

9 (2) "Computer control language" means any ordered statements that
 10 direct a commuter to perform specific functions.

11 (3) "Computer data base" means a representation of information,
 12 knowledge, facts, concepts, or instructions that:

13 (i) Are being prepared or have been prepared in a formalized
 14 manner or are or have been produced by a computer, computer system, or computer
 15 network; and

16 (ii) Are intended for use in a computer, computer system, or
 17 computer network.

18 (4) "Computer network" means the interconnection of 1 or more
 19 computers through:

20 (i) The use of a satellite, microwave, line, or other communication
 21 media; and

22 (ii) Terminals or a complex consisting of 2 or more interconnected
 23 computers whether or not the interconnection is continuously maintained.

24 (5) "Computer program" means an ordered set of instructions or
 25 statements that may interact with related data that, when executed in a computer
 26 system, causes the computer to perform specified functions.

27 (6) "Computer services" includes, but is not limited to, computer time,
 28 data processing, and storage functions.

29 (7) "Computer software" means computer programs, instruction,
 30 procedures, or associated documentation that is concerned with the operation of a
 31 computer system.

32 (8) "Computer system" means 1 or more connected or unconnected
 33 computers, peripheral devices, software, data, or programs.

34 (9) "Access" means to instruct, communicate with, store data in, retrieve
 35 data from, or otherwise make use of equipment including, but not limited to,
 36 computers and other data processing equipment or resources connected therewith.

HOUSE BILL 925

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1 (c) (1) A person may not intentionally, willfully, and without authorization
2 access, attempt to access, [or] cause access, OR EXCEED THE PERSON'S AUTHORIZED
3 ACCESS, to a computer, computer network, computer software, computer control
4 language, computer system, computer services, computer data base, or any part of
5 these systems or services.

6 (2) A person may not intentionally, willfully, and without authorization
7 access, attempt to access, [or] cause access, OR EXCEED THE PERSON'S AUTHORIZED
8 ACCESS, to a computer, computer network, computer software, computer control
9 language, computer system, computer services, computer data base, or any part of
10 these systems or services to:

11 (i) Cause the malfunction or interrupt the operation of a computer,
12 computer network, computer software, computer control language, computer system,
13 computer services, computer data base, or any part of these systems or services; or

14 (ii) Alter, damage, or destroy data or a computer program stored,
15 maintained, or produced by a computer, computer network, computer system,
16 computer services, computer data base, or any part of these systems or services.

17 (3) A person may not intentionally, willfully, and without authorization:

18 (i) POSSESS, [Identify] IDENTIFY, or attempt to identify any valid
19 access codes; or

20 (ii) Distribute or publicize any valid access codes to any
21 unauthorized person.

Article - Courts and Judicial Proceedings

22
23 5-106.

24 (X) A PROSECUTION UNDER ARTICLE 27, § 146(C) OF THE CODE RELATING TO
25 COMPUTER CRIMES SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE OFFENSE
26 WAS COMMITTED.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
28 October 1, 1998.

HOUSE BILL 925

8lr1505

E1

By: ~~Delegate Rudolph~~ Delegates Rudolph and Cryor

Introduced and read first time: February 12, 1998

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 1998

CHAPTER 0525

MAY 12 '98

APPROVED BY THE GOVERNOR

1 AN ACT concerning

2 Crimes - Computers - Exceeding Authorized Access

3 FOR the purpose of expanding the provisions relating to unauthorized access to
 4 certain computer devices, systems, or services; ~~establishing to apply to a person~~
 5 who exceeds the person's authorized access and to certain possession of valid
 6 access codes; increasing a statute of limitations for certain computer crimes; and
 7 generally relating to computer crimes.

8 BY repealing and reenacting, without amendments,

9 Article 27 - Crimes and Punishments

10 Section 146(a)

11 Annotated Code of Maryland

12 (1996 Replacement Volume and 1997 Supplement)

13 BY repealing and reenacting, with amendments,

14 Article 27 - Crimes and Punishments

15 Section 146(c)

16 Annotated Code of Maryland

17 (1996 Replacement Volume and 1997 Supplement)

18 BY adding to

19 Article - Courts and Judicial Proceedings

20 Section 5-106(x)

21 Annotated Code of Maryland

22 (1995 Replacement Volume and 1997 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

2

HOUSE BILL 925

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3

Article 27 - Crimes and Punishments

4 146.

5 (a) In this section the following words have the meanings indicated.

6 (1) (i) "Computer" means an electronic, magnetic, optical, organic, or
7 other data processing device or system that performs logical, arithmetic, memory, or
8 storage functions.

9 (ii) "Computer" includes any property, data storage facility, or
10 communications facility that is directly related to or operated in conjunction with that
11 device or system.

12 (iii) "Computer" does not include an automated typewriter, or
13 typesetter, or a portable calculator.

14 (2) "Computer control language" means any ordered statements that
15 direct a computer to perform specific functions.

16 (3) "Computer data base" means a representation of information,
17 knowledge, facts, concepts, or instructions that:

18 (i) Are being prepared or have been prepared in a formalized
19 manner or are or have been produced by a computer, computer system, or computer
20 network; and

21 (ii) Are intended for use in a computer, computer system, or
22 computer network.

23 (4) "Computer network" means the interconnection of 1 or more
24 computers through:

25 (i) The use of a satellite, microwave, line, or other communication
26 media; and

27 (ii) Terminals or a complex consisting of 2 or more interconnected
28 computers whether or not the interconnection is continuously maintained.

29 (5) "Computer program" means an ordered set of instructions or
30 statements that may interact with related data that, when executed in a computer
31 system, causes the computer to perform specified functions.

32 (6) "Computer services" includes, but is not limited to, computer time,
33 data processing, and storage functions.

HOUSE BILL 925

3

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1 (7) "Computer software" means computer programs, instruction,
2 procedures, or associated documentation that is concerned with the operation of a
3 computer system.

4 (8) "Computer system" means 1 or more connected or unconnected
5 computers, peripheral devices, software, data, or programs.

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6 (9) "Access" means to instruct, communicate with, store data in, retrieve
7 data from, or otherwise make use of equipment including, but not limited to,
8 computers and other data processing equipment or resources connected therewith.

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9 (c) (1) A person may not intentionally, willfully, and without authorization
10 access, attempt to access, [or] cause access, OR EXCEED THE PERSON'S AUTHORIZED
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17 language, computer system, computer services, computer data base, or any part of
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19 (i) Cause the malfunction or interrupt the operation of a computer,
20 computer network, computer software, computer control language, computer system,
21 computer services, computer data base, or any part of these systems or services; or

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22 (ii) Alter, damage, or destroy data or a computer program stored,
23 maintained, or produced by a computer, computer network, computer system,
24 computer services, computer data base, or any part of these systems or services.

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28 (ii) Distribute or publicize any valid access codes to any
29 unauthorized person.

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30 Article - Courts and Judicial Proceedings

31 5-106.

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32 (X) A PROSECUTION UNDER ARTICLE 27, § 146(C) OF THE CODE RELATING TO
33 COMPUTER CRIMES SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE OFFENSE
34 WAS COMMITTED.

aputer time,

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
36 October 1, 1998.

1998 EST FORMHB 925
LR 1505

OK

SPONSOR(S) Del Rulph DRAFTED BY Caldwell ValentineRudolphDATE DRAFTED 2/5REQUESTED BY Senile x3444TAKEN BY WOSDATE 1/21SUBJECT Computers - Authorized Access

(continued on back of page)

DELIVER TO/HOLD FOR: _____

CROSS FILE _____

FILE CODE EL

PRIOR INTRODUCTION _____

FIRST REVIEW: _____

REVIEWER MWDATE 2/5/98

NOTED BY DRAFTER _____

DATE _____

SECOND REVIEW: _____

REVIEWER _____

DATE _____

NOTED BY DRAFTER _____

DATE _____

8 lr 1505

PROOFREADING RECORD



Proofed:

AB-KLT 2/6/98 WC
(initials) (date) (ok/wc)

Synopsis:

AB-KLT
(initials)

Contacted Drafter:

YES NO
(circle one)

Second Check:

Functions:

RLS-VWH 2/6/98
(initials) (date) (ok/wc)

Remainder of lr:

RLS-VWH 2/6/98
(initials) (date) (ok/wc)

Corrections:

(initials) (date) (ok/wc)

BE ERW 2/8 OK

Final:

(ok) (wc) RLS-KAL 2-8-98
(initials) (date)

(Review Copy of LR 1505)

E1

8lr1505

Drafted By: Lori Valentine
 Typed By: _____
 Stored On: 1/27/98
 Proofread By: _____
 Checked By: _____

By: Delegate Rudolph

AN ACT concerning

A BILL ENTITLED

Crimes - Computers - Exceeding Authorized Access

FOR the purpose of expanding the provisions relating to unauthorized access to certain computer devices, ~~or~~
 systems; establishing a statute of limitations relating to certain computer crimes; and generally relating
 to unauthorized access to computers ~~crimes~~.

BY repealing and reenacting, with amendments,

- ✓ Article 27 - Crimes and Punishments
- ✓ Section 146(c)
- ✓ Annotated Code of Maryland
- ✓ (1996 Replacement Volume and 1997 Supplement)

BY adding to

- ✓ Article - Courts and Judicial Proceedings
- ✓ Section 5-106(x)
- ✓ Annotated Code of Maryland
- ✓ (1995 Replacement Volume and 1997 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws
 of Maryland read as follows:

START amendments show (a) ~~do not change~~ set out w/o change

Article 27 - Crimes and Punishments

146.

(c) (1) A person may not intentionally, willfully, and without authorization access, attempt to
 access, [or] cause access, **OR EXCEED THE PERSON'S AUTHORIZED ACCESS**, to a computer, computer network,
 computer software, computer control language, computer system, computer services, computer data base, or any
 part of these systems or services.

(2) A person may not intentionally, willfully, and without authorization access, attempt to

(Review Copy of LR 1505)

Page 2 of 2

access, [or] cause access, OR EXCEED THE PERSON'S AUTHORIZED ACCESS, to a computer, computer network, computer software, computer control language, computer system, computer services, computer data base, or any part of these systems or services to:

(i) Cause the malfunction or interrupt the operation of a computer, computer network, computer software, computer control language, computer system, computer services, computer data base, or any part of these systems or services; or

(ii) Alter, damage, or destroy data or a computer program stored, maintained, or produced by a computer, computer network, computer system, computer services, computer data base, or any part of these systems or services.

(3) A person may not intentionally, willfully, and without authorization:

(i) POSSESS, [Identify] IDENTIFY, or attempt to identify any valid access codes; or

(ii) Distribute or publicize any valid access codes to any unauthorized person.

Article - Courts and Judicial Proceedings

5-106.

(X) A PROSECUTION UNDER ARTICLE 27, § ~~146(C)(1), (C)(2), AND (C)(3)~~ RELATING TO COMPUTER CRIMES, SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE OFFENSE WAS COMMITTED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1998.

146(C) OF THE CODE

per L. Caldwell-Valentine (RUS)

2/6/98.

W.P. Crimes - Computers
Exceeding
Authorized
Access

Article - 27 - Crimes and Punishments

146.

(a) In this section the following words have the meanings indicated.

(1) (i) "Computer" means an electronic, magnetic, optical, organic, or other data processing device or system that performs logical, arithmetic, memory, or storage functions.

(ii) "Computer" includes any property, data storage facility, or communications facility that is directly related to or operated in conjunction with that device or system.

(iii) "Computer" does not include an automated typewriter or typesetter, or a portable calculator.

(2) "Computer control language" means any ordered statements that direct a computer to perform specific functions.

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(ii) Are intended for use in a computer, computer system, or computer network.

(4) "Computer network" means the interconnection of 1 or more computers through:

(i) The use of satellite, microwave, line, or other communication media; and

(ii) Terminals or a complex consisting of 2 or more interconnected computers whether or not the interconnection is continuously maintained.

(5) "Computer program" means an ordered set of instructions or statements that may interact with related data that, when executed in a computer system, causes the computer to perform specified functions.

(6) "Computer services" includes, but is not limited to, computer time, data processing, and storage functions.

(7) "Computer software" means computer programs, instructions, procedures, or associated documentation that is concerned with the operation of a computer system.

(8) "Computer system" means 1 or more connected or unconnected computers, peripheral devices, software, data, or programs.

(9) "Access" means to instruct, communicate with, store data in, retrieve data from, or otherwise make use of equipment including, but not limited to, computers and other data processing equipment or resources connected therewith.

(b) This section does not preclude the applicability of any other provision of this Code.

(c) (1) A person may not intentionally, willfully, and without authorization access, attempt to access, [or] cause access, **OR EXCEED ONE'S AUTHORIZED ACCESS**, to a computer, computer network, computer software, computer control language, computer system, computer services, computer data base, or any part of these systems or services.

(2) A person may not intentionally, willfully, and without authorization access, attempt to access, [or] cause access, **OR EXCEED ONE'S AUTHORIZED ACCESS**, to a

computer, computer network, computer software, computer control language, computer system, computer

services, computer data base, or any part of these systems or services to:

(i) Cause the malfunction or interrupt the operation of a computer, computer network, computer software, computer control language, computer system, computer services, computer data base, or any part of these systems or services; or

(ii) Alter, damage, or destroy data or a computer program stored, maintained, or produced by a computer, computer network, computer system, computer services, computer data base, or any part of these systems or services.

(3) A person may not intentionally, willfully, and without authorization:

(i) **POSSESS, [I]** Identify, or attempt to identify any valid access codes; or

(ii) Distribute or publicize any valid access codes to any unauthorized person.

(d) (1) Any person who violates any provision of subsection (c) (1) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 3 years or both.

(2) Any person who violates any provision of subsection (c) (2) or (c) (3) of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 5 years or both.

(e) (1) When illegal access to a computer, computer network, computer control language, computer system, computer services, computer software, computer data base, or any part of these systems or services is committed in violation of this section pursuant to 1 scheme or continuing course of conduct, the conduct may be considered as 1 offense.

(2) A court of competent jurisdiction in this State may try a person who allegedly violates any provision of subsection (c) of this section in any county in this State where:

(i) The person performs the act; or

(ii) The accessed computer is located.

5-106.

(a) Except as provided by this section, a prosecution for a misdemeanor shall be instituted within one year after the offense was committed.

(b) Notwithstanding Article 27, § 690 (e) of the Code, if a statute provides that a misdemeanor is punishable by imprisonment in the penitentiary, the State may institute a prosecution for the offense at any time.

(c) A prosecution under the vehicle code shall be instituted within two years after the offense was committed if the charge is:

(1) Unlawfully using a driver's license; or

(2) Fraudulently using a false or fictitious name when applying for a driver's license.

(d) A prosecution for Sabbath breaking or drunkenness shall be instituted within 30 days after the offense was committed.

(e) In Allegany County, a prosecution for selling alcoholic beverages to a person under the legal age for drinking such alcoholic beverages or for selling alcoholic beverages after hours shall be instituted within 30 days after the offense was committed.

(f) A prosecution for the commission of or the attempt to commit a misdemeanor constituting: (1) a criminal offense under the State election laws; or (2) a criminal offense under the State conflict of interest laws; or (3) criminal malfeasance, misfeasance, or nonfeasance in office committed by an officer of the State, or of an agency of the State, or of a political subdivision of the State, or of a bicounty or multicounty agency in the State shall be instituted within two years after the offense was committed.

(g) A prosecution for conspiracy to commit any of the offenses enumerated in subsection (f) of this section shall be instituted within two years after the offense was committed.

(h) A prosecution for a welfare offense under Article 27, § 230A of the Code shall be instituted within three years after the offense was committed.

(i) A prosecution for the offense of Medicaid fraud under Article 27, § 230B of this Code shall be instituted within 3 years after the offense was committed.

(j) A prosecution for an offense arising under the Tax-General Article with respect to the financial institution franchise, income, or motor fuel tax shall be instituted within 3 years after the date on which the offense was committed.

(k) A prosecution for the offense of failure to secure workers' compensation insurance in accordance with Title 9, Subtitle 4 of the Labor and Employment Article shall be instituted within 1 year after the State Workers' Compensation Commission finds, by order, that the employer was uninsured or, pursuant to the authority contained in § 9-1003 of the Labor and Employment Article, within 1 year after the Uninsured Employers' Fund makes payment under § 9-1003 of the Labor and Employment Article, as directed by the Commission.

(l) A prosecution for an offense of the controlled hazardous substance law under § 7-265 (b) of the Environment Article, shall be instituted within 2 years after commission of the offense.

(m) Except as provided in subsection (g) of this section, the statute of limitations for the prosecution of the crime of conspiracy is the statute of limitations for the prosecution of the substantive crime that is the subject of the conspiracy.

(n) A prosecution for an offense under Article 27, § 388 or § 388A of the Code shall be instituted within 3 years after the offense was committed.

(o) A prosecution for an offense of discrimination on the basis of sex in paying wages under §§ 3-301 through 3-308 of the Labor and Employment Article shall be instituted within 3 years after the performance of the act on which the prosecution is based.

(p) A prosecution for an offense of unlawfully charging or receiving compensation in connection with an adoption under § 5-327 of the Family Law Article shall be instituted within 3 years after the offense was committed.

(q) A prosecution for an offense under § 14-601 of the Health Occupations Article of practicing, attempting to practice, or offering to practice medicine without a license shall be instituted within 3 years after the offense was committed.

(r) A prosecution for an offense under the Maryland Charitable Solicitations Act (Title 6 of the Business Regulation Article) shall be instituted within 3 years after the offense

was committed.

(s) A prosecution for an offense under § 449 (d) or (e) of this subtitle, relating to straw sales of regulated firearms to prohibited persons or minors and to illegal sales, rentals, transfers, possession, or receipt of regulated firearms, shall be instituted within 3 years after the offense was committed.

(T) A PROSECUTION UNDER SUBSECTION §146 (C) (1), (C) (2), AND (C) (3) OF ARTICLE 27, RELATING TO COMPUTER CRIMES, SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE OFFENSE WAS COMMITTED.

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/bills/98lf/tr/1500/1505

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8lr1505

Bill No.: _____

Requested: _____

Committee: _____

Drafted by: Lori Valentine

Typed by: bye

Stored - 02/06/98

Proofread by ABKLT

Checked by BF ERW

By: **Delegate Rudolph**

A BILL ENTITLED

AN ACT concerning

Crimes - Computers - Exceeding Authorized Access

FOR the purpose of expanding the provisions relating to unauthorized access to certain computer devices, systems, or services; establishing a statute of limitations for certain computer crimes; and generally relating to computer crimes.

BY repealing and reenacting, without amendments,

Article 27 - Crimes and Punishments

Section 146(a)

Annotated Code of Maryland

(1996 Replacement Volume and 1997 Supplement)

BY repealing and reenacting, with amendments,

Article 27 - Crimes and Punishments

Section 146(c)

Annotated Code of Maryland

(1996 Replacement Volume and 1997 Supplement)

BY adding to

Article - Courts and Judicial Proceedings

Section 5-106(x)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.

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Annotated Code of Maryland	20
(1995 Replacement Volume and 1997 Supplement)	21
SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF	22
MARYLAND, That the Laws of Maryland read as follows:	23
Article 27 – Crimes and Punishments	24
146.	25
(a) In this section the following words have the meanings indicated.	26
(1) (i) “Computer” means an electronic, magnetic, optical, organic, or	27
other data processing device or system that performs logical, arithmetic, memory, or	28
storage functions.	29
(ii) “Computer” includes any property, data storage facility, or	30
communications facility that is directly related to or operated in conjunction with that	31
device or system.	32
(iii) “Computer” does not include an automated typewriter, or	33
typesetter, or a portable calculator.	34
(2) “Computer control language” means any ordered statements that	35
direct a commuter to perform specific functions.	36
(3) “Computer data base” means a representation of information,	37
knowledge, facts, concepts, or instructions that:	38
(i) Are being prepared or have been prepared in a formalized	39
manner or are or have been produced by a computer, computer system, or computer	40
network; and	41
(ii) Are intended for use in a computer, computer system, or	42
computer network.	43
(4) “Computer network” means the interconnection of 1 or more	44

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computers through:

(i) The use of a satellite, microwave, line, or other communication media; and

(ii) Terminals or a complex consisting of 2 or more interconnected computers whether or not the interconnection is continuously maintained.

(5) "Computer program" means an ordered set of instructions or statements that may interact with related data that, when executed in a computer system, causes the computer to perform specified functions.

(6) "Computer services" includes, but is not limited to, computer time, data processing, and storage functions.

(7) "Computer software" means computer programs, instruction, procedures, or associated documentation that is concerned with the operation of a computer system.

(8) "Computer system" means 1 or more connected or unconnected computers, peripheral devices, software, data, or programs.

(9) "Access" means to instruct, communicate with, store data in, retrieve data from, or otherwise make use of equipment including, but not limited to, computers and other data processing equipment or resources connected therewith.

(c) (1) A person may not intentionally, willfully, and without authorization access, attempt to access, [or] cause access, OR EXCEED THE PERSON'S AUTHORIZED ACCESS, to a computer, computer network, computer software, computer control language, computer system, computer services, computer data base, or any part of these systems or services.

(2) A person may not intentionally, willfully, and without authorization access, attempt to access, [or] cause access, OR EXCEED THE PERSON'S AUTHORIZED ACCESS, to a computer, computer network, computer software, computer control

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language, computer system, computer services, computer data base, or any part of 71
these systems or services to: 72

(i) Cause the malfunction or interrupt the operation of a computer, 73
computer network, computer software, computer control language, computer system, 74
computer services, computer data base, or any part of these systems or services; or 75

(ii) Alter, damage, or destroy data or a computer program stored, 76
maintained, or produced by a computer, computer network, computer system, 77
computer services, computer data base, or any part of these systems or services. 78

(3) A person may not intentionally, willfully, and without authorization: 79

(i) POSSESS, [Identify] IDENTIFY, or attempt to identify any valid 80
access codes; or 81

(ii) Distribute or publicize any valid access codes to any 82
unauthorized person. 83

Article – Courts and Judicial Proceedings 84

5-106. 85

(X) A PROSECUTION UNDER ARTICLE 27, § 146(C) OF THE CODE RELATING TO 86
COMPUTER CRIMES SHALL BE INSTITUTED WITHIN 3 YEARS AFTER THE OFFENSE 87
WAS COMMITTED. 88

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 89
October 1, 1998. 90

floor report

HOUSE BILL 925
Crimes - Computers - Exceeding Authorized Access

SPONSOR: Delegate Rudolph

COMMITTEE RECOMMENDATION: Favorable with amendments

SUMMARY OF BILL:

The bill prohibits a person from intentionally, willfully, and without authorization exceeding the person's authorized access to any computer devices, systems, or services (penalty of 1 year/\$3,000).

This bill further prohibits a person from intentionally, wilfully, and without authorization exceeding the person's authorized access to any computer devices, systems, or services for the purpose of causing the malfunction or interruption of the operation of the computer device, system, or service, or alteration, damage, or destruction of data or a computer program stored, maintained, or produced by the computer device, system, or service (5 years/\$5,000).

The bill prohibits a person from intentionally, willfully, and without authorization possessing any valid access codes (5 years/\$5,000).

The bill provides a 3 year statute of limitations period for computer crimes prosecuted under Article 27, §146(c) of the Code.

COMMITTEE AMENDMENTS: One

The amendment adds a sponsor from a similar bill and also makes a technical change to the purpose paragraph.

BACKGROUND:

In the recent Court of Appeals case of Briggs v. State (filed 1/22/98), the Court addressed the issue of whether the current statute in Art. 27, § 146 covered the situation of a person whose access to a computer was authorized, but who exceeded the scope of the authorization. The Court held that it did not, stating: "The statute makes no reference to authorized users who exceed the scope of their authority. If the Legislature intended the statute to cover employees who exceeded the scope of their authority or who misused their authority, it could have done so explicitly. We conclude that the intent of the General Assembly was to criminalize the misuse of computers or computer networks by those whose initial access was unauthorized." This bill will criminalize the conduct described in Briggs.

Under current law, a person is prohibited from intentionally, wilfully, and without authorization accessing, attempting to access, or causing access to any computer devices, systems, or services.

Current law prohibits a person from intentionally, willfully, and without authorization accessing, attempting to access, or causing access to any computer devices, systems, or services with the purpose of causing the malfunction or interruption of the operation of the computer device, system, or service, or alteration, damage, or destruction of data or a computer program stored, maintained, or produced by the computer device, system, or service.

Current law prohibits a person from intentionally, willfully, and without authorization identifying or attempting to identify any valid access codes or distributing or publicizing any valid access codes to any unauthorized person.

